



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Skinner v Iczkovitz, 2023 ONLTB 20241

Date: 2023-02-08

File Number: LTB-L-020916-22-RV

In the matter of: Main Floor, 72 Stormont Ave
Toronto ON M5N2C2

Between: Wayne Skinner Landlord

And

Susan Iczkovitz Tenant

Review Order

Wayne Skinner (the 'Landlord') applied for an order to terminate the tenancy and evict Susan Iczkovitz (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-020916-22 issued on January 30, 2023.

On February 5, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

A preliminary review of the review request was completed without a hearing.

Determinations:

1. On the basis of the submissions made in the request, I am not satisfied there is a serious error in the order or that a serious error occurred in the proceedings.
2. The Tenant claims she was not reasonably able to participate in the proceeding, alleging the member erred in refusing the Tenant's agent's adjournment request and in refusing to combine the Tenant's applications with the Landlord's rent arrears application.
3. The presiding member's exercise of discretion will only be set aside if the exercise in discretion was capricious or otherwise improper. The Landlord's application was filed in April 2022, and the member noted the matter was already adjourned at the Tenant's request on (2) two different appearances. While the Tenant did not attend the hearing, the Tenant's spouse attended on the Tenant's behalf (as per the Tenant's written authorization) and the order is clear the Tenant's agent participated in the proceeding and gave evidence on the Tenant's behalf. Furthermore, in denying the Tenant's request to adjourn the application in order to combine the Tenant's applications with the Landlord's rent arrears application, the member rightfully noted the Tenant had the opportunity to make the request to combine applications, previously. While the Tenant states the member mistakenly noted the Tenant



had a “legal representative” at a prior January 16, 2023 appearance, I do not find this is factual error which relates to a material issue in dispute. Further, the member noted the parties had reached a consent regarding the termination of tenancy and considered the fact that the balance of issues and evidence “*do not particularly overlap, and therefore there is an unlikely risk of inconsistent findings*”. I find the hearing member acted reasonably in the circumstances and met the Board’s duty under section 183 of the Residential Tenancies Act, 2006 (the “Act”) to adopt the most expeditious method of determining the Landlord’s application while affording the parties an adequate opportunity to know the issues and to be heard on the matter.

4. The request to review also states the utility split should be recalculated “*as there were material changes to the basement unit.*” Even if proven, I do not find this would be a factual error which would change the result of the order. The member does not make a finding as to the parties’ respective utility payment obligation and/or whether or not there has been compliance. In this regard, the order shows the hearing member considered the wording of the lease agreement in determining that monthly rent and utilities are contemplated separately and explained the parties’ respective utility responsibilities are not at issue in this proceeding. Accordingly, even if proven, I do not find this issue establishes a serious error may exist as the current application is in respect of rent arrears only.
5. Lastly, the review request states the Landlord is a numbered company and not the named individual noted on the application. The Tenant’s review request does not elaborate as to the reason(s) why she believes the Landlord was not properly named and/or why the named Landlord does not meet the definition of Landlord under section 2(1) of the Act, being:
 - (a) the owner of a rental unit or any other person who permits occupancy of a rental unit...
 - (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a); and,
 - (c) a person...who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.
6. The Tenant simply states this is an issue that would have been addressed if she was in attendance. As noted above, the Tenant was represented at the hearing and the order shows the member considered the submissions/evidence of the Tenant’s agent. Moreover, the purpose of the review process is not to provide parties with an opportunity of relitigating the issues and/or providing new evidence which would have been readily available at the time of the hearing in the hopes of a better outcome.
7. For these reasons, I do not find the Tenant has established that a serious error may exist in the January 30, 2023 order, or that a serious error may have occurred in the proceedings. The Tenant’s request to review the order is denied.



It is ordered that:

1. The request to review order LTB-L-020916-22 issued on January 30, 2023 is denied.
2. The order is confirmed and remains unchanged.

February 8, 2023

Date Issued

Peter Nicholson

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.